

# Appeals of LME/MCO Actions

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Jennifer Hillman  
Staff Attorney  
Research Division  
(919) 733-2578

March 5, 2014

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# Appeals of LME/MCO Actions

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## COMPLAINT

- Dissatisfaction with treatment plan
  - number of authorized hours
  - service type
  - level of service
- Dissatisfaction with service provider
  - availability/choice
  - quality of care
- Dissatisfaction with terms of provider's inclusion in LME/MCO network
- Dissatisfaction with LME/MCO decision to limit number of hours of service per week that can be provided by a relative

## WHO MAY APPEAL?

**Enrollee/beneficiary?**

**Provider agency?**

**Guardian/provider staff?**

# Appeals of LME/MCO Actions

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## ENROLLEE APPEALS

- Enrollee vs. LME/MCO
- “State Fair Hearings”

## PROVIDER APPEALS

- Provider agency vs. LME/MCO
- As allowed generally under the law

Guardian/provider could potentially participate in both types of appeals

# Enrollee Appeals

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- Addresses disputes between the **enrollee** (or his/her representative) and the **LME/MCO**
- **G.S. § § 108A-70.9A, -70.9B, and -70.9C**
  - Prior to August 23, 2013
- **Chapter 108D**
  - Applies to “**enrollees**,” defined as:
    - “A Medicaid beneficiary who is currently enrolled with an LME/MCO”
  - Applies to **grievances** and **managed care actions** filed on or after August 23, 2013, and specifies procedures for appealing each
  - created by S.L. 2013-397 (S.B. 553)

# Enrollee Appeals

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## Grievances

- G.S. 108D-12
- An enrollee, or a network provider authorized in writing to act on behalf of an enrollee, has the right to file a **grievance** with an LME/MCO at any time **to express dissatisfaction about any matter other than a managed care action.**
- Enrollee has the right to internal review of the grievance by the LME/MCO, but **no right to further appeal** the matter to the Office of Administrative Hearings (OAH) or any other forum.
- E.g., Dissatisfaction with availability or choice of service provider, or quality of care

# Enrollee Appeals

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## Managed Care Actions

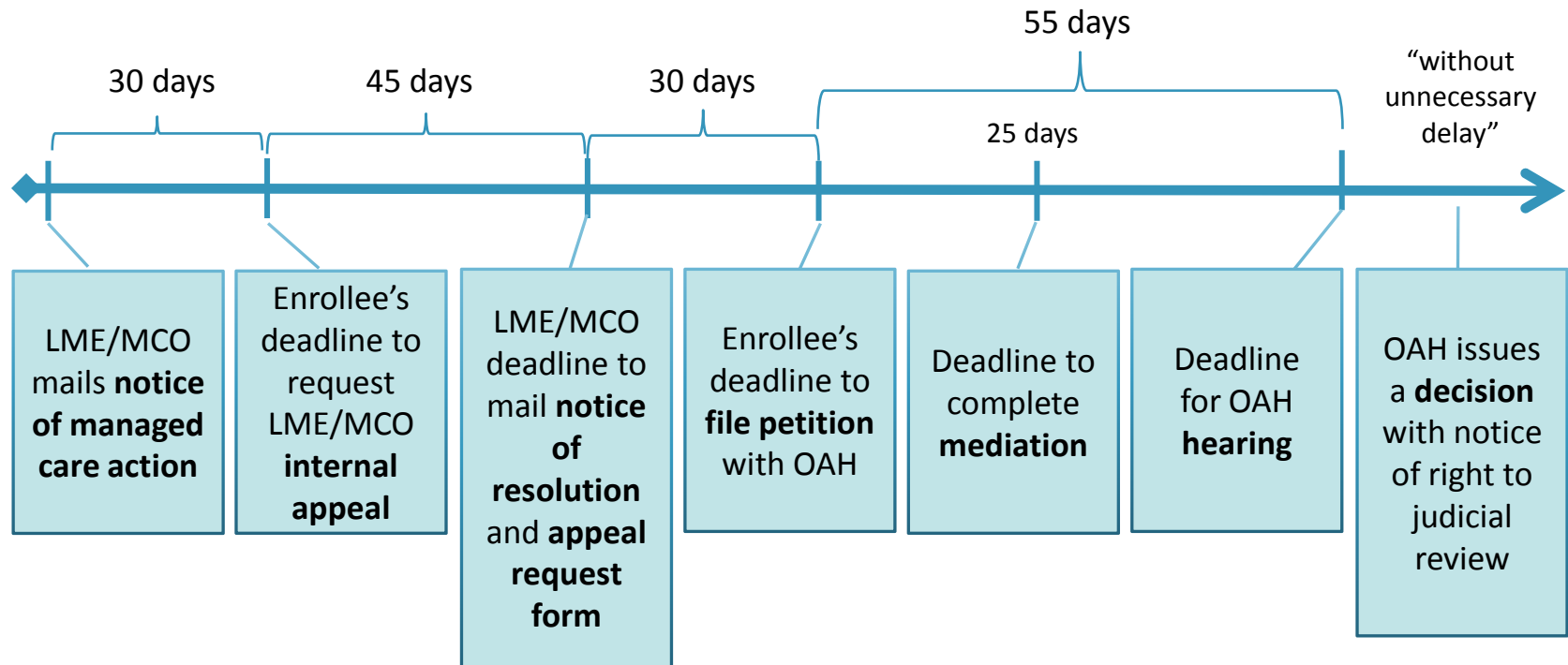
- G.S. 108D-1(10): “Managed care action. – An action, as defined in 42 C.F.R. § 438.400(b)”

“Action” is when:

- An LME/MCO denies an enrollee’s request for services or authorizes a lesser number of hours or different type or level of service
- An LME/MCO reduces, suspends, or terminates a previously authorized service
- An LME/MCO fails to provide services in a timely manner or act within required timeframes

# Enrollee Appeals

## Managed Care Actions



# Enrollee Appeals

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- When the enrollee is a ward, the enrollee's guardian pursues the appeal on behalf of the enrollee.
- The guardian may provide written authorization allowing a network provider to represent the ward at the hearing.
- These appeals are still “enrollee” appeals because they are made on behalf of the enrollee.



# Provider Agency Appeals

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- Addresses disputes between **provider agency** and **LME/MCO**
- Legal remedies
  - Not addressed in Chapter 108D
  - Office of Administrative Hearings
  - Superior Court
- In the context of guardianship
  - Dissatisfaction with terms of provider's inclusion in LME/MCO network
  - Dissatisfaction with LME/MCO decision to limit number of hours of service per week that can be provided by a relative

# Provider Agency Appeals

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“It is recommended that relatives residing in the home of the recipient provide no more than 40 hours per week of service to the person. If additional hours are requested to be provided by relatives residing in the home of the recipient then justification needs to be provided as to why other providers are not available and assurances of provider choice and that the individual will not be isolated from their community.”

-- Appendix C, NC Innovations Waiver

Cardinal Innovations, FY 2013-14, to date:

- Received **48** requests to provide more than 40 hours per week
- Of those requests, **39** were approved

# “Appeals” by Guardians

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- If a guardian is dissatisfied with an action of the LME/MCO it is usually either by virtue of their status as a representative of the enrollee or of the provider agency
- Provider staffing is managed by the provider agency, not the LME/MCO; therefore, disputes between the guardian and the provider agency are employment disputes.

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## Summary

Complaint	Appeal available?
Dissatisfaction with treatment plan	Enrollee may appeal, and guardian or other provider may represent
Dissatisfaction with service provider	Enrollee may file a grievance, and guardian or other provider may represent
Dissatisfaction with terms of provider's inclusion in LME/MCO network	Provider agency may appeal/take legal action
Dissatisfaction with LME/MCO decision to limit number of hours of service per week that can be provided by a relative	Provider agency may appeal/take legal action

# Potential Conflicts of Interest

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- A conflict of interest could occur when the guardian has a personal interest in his/her employment with the provider agency that is in conflict with the ward's best interest.
- Such a conflict of interest could impact a guardian's decision to appeal on behalf of an enrollee

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# Questions?

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